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8 **United States District Court**
9 **Central District of California**
10 **Western Division**

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12 MARLENE VASQUEZ, et al.,

CV 16-01194 TJH (AGRx)

13 Plaintiffs,

14 v.

15 DOWNTOWN L.A. MOTORS,
NISSAN, LP, *et al.*,

Order

16 Defendants.

JS-6

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18 The Court has considered Plaintiffs' motion for partial summary judgment,
19 together with the moving and opposing papers.

20 With the voluntary dismissal of the Fair Debt Collection Practices Act, 15 U.S.C.
21 § 1692, *et seq.* ["FDCPA"], claim asserted against Defendant Statewide Recovery
22 Services, the only remaining claims, here, are state law claims. Despite the
23 representations in the Final Pretrial Conference Order, the presence of a federal issue
24 in a state law claim does not automatically confer federal question jurisdiction. *See*
25 *Merrell Dow Pharms., Inc. v. Thompson*, 478 U.S. 804, 813 (1986). At every stage
26 of litigation, the Court has an independent obligation to ensure that it does not exceed
27 the scope of its subject matter jurisdiction. *Henderson ex rel. Henderson v. Shinseki*,

1 562 U.S. 428, 434 (2011). Indeed, the Court has an obligation to examine subject
 2 matter jurisdiction even if no party raises it. *Allstate Ins. Co. v. Hughes*, 358 F.3d
 3 1089, 1093 (9th Cir. 2004).

4 A state law claim invokes federal question jurisdiction only if it “necessarily
 5 raise[s] a stated federal issue, actually disputed and substantial, which a federal forum
 6 may entertain without disturbing any congressionally approved balance of federal and
 7 state judicial responsibilities.” *Grable & Sons Metal Prods., Inc. v. Darue Eng’g &*
 8 *Mfg.*, 545 U.S. 308, 314 (2005). Further, federal question jurisdiction does not attach
 9 where federal law is not a necessary element of the state law claim. *Rains v. Criterion*
 10 *Sys., Inc.*, 80 F.3d 339, 346 (9th Cir. 1996).

11 Cal. Civ. Code §1788.17, part of the Rosenthal Act, includes a “borrowing”
 12 provision whereby the Rosenthal Act is violated when, *inter alia*, there is a violation
 13 of the FDCPA. *See Nevada v. Bank of America Corp.*, 672 F.3d 661, 675 (9th Cir.
 14 2012). When there are multiple grounds – under both state law and federal law – to
 15 resolve a state law claim, as is the case with the Rosenthal Act, federal question
 16 jurisdiction does not attach because resolution of federal law is not a necessary element
 17 of the claim. *See Rains*, 80 F.3d 346. In other words, when a federal law is merely
 18 an element of a state law claim, federal jurisdiction does not attach if there are non-
 19 federal ways to satisfy the state law claim, regardless of whether a plaintiff chooses to
 20 use federal law to satisfy the state law claim. *Rains*, 80 F.3d at 345-46 (9th Cir. 1996).

21 When the Ninth Circuit considered a Nevada consumer protection statute with
 22 a “borrowing” provision that triggered liability under the Nevada statute if there was
 23 a violation of the FDCPA – similar to the way the plaintiffs, here, are proceeding under
 24 the Rosenthal Act – it concluded that the “borrowing provision” was merely a “glancing
 25 reference” to federal law that was insufficient to confer federal question jurisdiction.
 26 *Nevada*, 672 F.3d at 675.

27 Consequently, this Court no longer has federal question jurisdiction over this
 28 action.

1 Pursuant to 28 U.S.C. § 1337(c)(3), the Court has discretion to exercise
2 supplemental jurisdiction over the remaining state law claims after the claim which
3 provided federal question jurisdiction was dismissed. *See Foster v. Wilson*, 504 F.3d
4 1046, 1051-52 (9th Cir. 2007). However, the Court will not exercise supplemental
5 jurisdiction here. The remaining California state claims are between California parties
6 – Vasquez and Rosales are both domiciled in California, while Nissan is a California
7 corporation with its principal place of business in Los Angeles. Further, the exercise
8 of supplemental jurisdiction over California claims that merely reference a federal
9 consumer protection statute between California parties would create a “potentially
10 enormous shift of traditionally state cases into federal courts.” *See Nevada*, 672 F.3d
11 at 676.

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Accordingly,

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15 **It is Ordered**, *sua sponte*, that this case be, and hereby is, **Dismissed** without
16 prejudice for lack of subject matter jurisdiction.

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Date: July 11, 2017

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Terry J. Hatter, Jr.
Senior United States District Judge